

REMARKS

In the Final Office Action^[1], the Examiner took the following actions:

rejected claims 1-4, 6-10, 12-16, 18-23, 25, and 27 under 35 U.S.C. §102(b) as being unpatentable over *Johnson et al.* (5,615,408, “*Johnson*”);

rejected claims 28 and 29 under 35 U.S.C. §102(e) as being unpatentable over *Pillay et al.* (2002/0042763 A1, “*Pillay*”);

rejected claims 5 and 11 under 35 U.S.C. §103(a) as being obvious over *Johnson* in view of *Natsuno* (7,231,202, “*Natsuno*”); and

rejected claims 17, 24, and 26 under 35 U.S.C. §103(a) as being obvious over *Johnson*.

Applicants have amended claims 1, 2, 4, 5, 6, 10-12, 16, 19, and 23, and cancelled claims 3, 9, 17, and 26. Claims 1, 2, 4, 10-16, 18-25, and 27-29 remain pending.

I. Rejections of Claims 1-4, 6-10, 12-16, 18-23, 25, and 27 under 35 U.S.C. § 102(b)

Applicants respectfully traverse the rejection of claims 1-4, 6-10, 12-16, 18-23, 25, and 27 under 35 U.S.C. § 102(b) as anticipated by *Johnson*. In order to properly establish that *Johnson* anticipates the claims under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

^[1] The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Final Office Action.

Independent claim 1, as amended, defines a credit management system, including “a credit limit manager, said credit limit manager managing credit limit master data and calculating open and used credit for said customer” and “a credit rules engine, said credit rules engine applying credit rules to the credit information, the credit limit master data and open and used credit, and the accounting information relating to said customer to generate internal scoring and internal credit limits.” *Johnson* fails to teach or suggest all of the elements of claim 1.

Johnson fails to teach or suggest the claimed “credit limit manager” or any form of manager for “calculating open and used credit for said customer,” as recited in claim 1. Contrary to the assertions in the Final Office Action, *Johnson* merely discloses an incremental process which compares a current and a previous external credit score of a subscriber to determine whether the subscriber’s credit limit should be increased or decreased. (See *Johnson*, col. 9, lines 44-54). In other words, *Johnson* discloses analyzing trends in a customer’s external credit score. *Johnson* does not teach or suggest a “credit limit manager” for “managing credit limit master data and calculating open and used credit for said customer,” as recited in independent claim 1 (emphasis added).

Johnson also fails to teach or suggest the claimed “credit rules engine” of independent claim 1. As noted above, *Johnson* uses a credit score obtained from an external credit bureau to determine a credit limit for a subscriber. (See *Johnson*, col. 8, line 57-col. 9, line 17). *Johnson* only collects these external credit scores to periodically update a customer’s internal credit limit. (See *Johnson*, Fig. 1C). Although *Johnson* discloses an event manager for checking usage patterns, suspect calls, etc. (see

Johnson, Fig. 3A), *Johnson* does not teach or suggest a “credit rules engine” for “applying credit rules to the credit information, the credit limit master data and calculated open and used credit, and the accounting information relating to said customer to generate internal scoring and internal credit limits”, as recited in claim 1 (emphasis added). Contrary to the Final Office Action, such features are simply not disclosed by *Johnson*.

Accordingly, for at least these reasons, *Johnson* does not anticipate independent claim 1. Claims 2 and 4-5 depend from claim 1 and are thus also allowable for at least the same reasons as that discussed above for claim 1. The rejection of claim 3 is moot in view of the cancellation of that claim.

Independent amended claims 6 and 12, although of difference scope from amended claim 1, and each other, recite elements similar to those discussed for claim 1 above and are therefore allowable for at least the reasons presented above for claim 1. Claims 7, 8, 10, 11, and 13-15 are also allowable in view of their dependency from claim 6 or 12. The rejection of claim 9 is moot in view of the cancellation of that claim.

Independent claim 16, as amended, defines a method of automated credit limit monitoring including “receiving accounting information collectively providing an indication of exposure for said customer, wherein said accounting information comprises data relating to at least one of open items, new orders, and unbilled and billed but not posted items . . . and if said total exposure is within a predetermined level of said credit limit or higher, triggering an event for follow-up and updating credit scoring and credit limit for said customer.” *Johnson* fails to teach or suggest all of the elements of claim 16.

Based on column 8, line 57 - column 9, line 17, column 9, lines 41-62, and column 57, lines 19-24, the Examiner alleges that *Johnson* teaches “receiving accounting information, said accounting information collectively providing an indication of exposure for said customer . . . if said total exposure is within a predetermined level of said credit limit or higher, triggering an event for follow-up and updating credit scoring and credit limit for said customer.” (See Final Office Action, pp. 6-7.) Applicants traverse. *Johnson* uses a credit score obtained from an external credit bureau to determine a credit limit for a subscriber. *Johnson* does not analyze any form of “accounting information” as claimed to determine exposure of a subscriber, let alone calculate a “total exposure” using “accounting information compris[ing] data relating to at least one of open items, new orders, and unbilled and billed but not posted items,” as recited in claim 16.

Accordingly, for at least these reasons, *Johnson* does not anticipate independent claim 16. Claim 18 depends from claim 16 and is also allowable for at least reasons similar to that discussed above for claim 18.

Independent amended claim 19, although of difference scope from claim 16, recites elements similar to those discussed for claim 1, above and is therefore allowable for at least reasons similar to that presented for claim 16. Claims 20-25 and 27 are also allowable in view of their dependence from claim 19.

II. Rejections of Claims 28 and 29 under 35 U.S.C. § 102(e)

Applicants respectfully traverse the rejection of claims 28 and 29 under 35 U.S.C. § 102(e) as anticipated by *Pillay*. Independent claim 28 defines a method of automatically preparing a credit checklist including “obtaining information from an

accounts receivable system; obtaining information from a billing system; and taking information relating to a predetermined volume of customers, critical customers' information, and suspicious customers' information and preparing a report therefrom." . *Pillay* fails to teach or suggest all of the elements of amended claim 28.

The Final Office Action references paragraphs 59 and 66 of *Pillay* to support the rejection of claim 28. However, neither those paragraphs nor any other section of *Pillay* provide adequate support for the rejection. *Pillay* relates to an apparatus and method for providing a credit report to a customer which may include a credit limit and/or other "credit related information". (See *Pillay*, [0059].) However, *Pillay* does not teach or suggest "obtaining information from an accounts receivable system" and "obtaining information from a billing system." Furthermore, *Pillay* fails to disclose "taking information relating to a predetermined volume of customers, critical customers' information, and suspicious customers' information and preparing a report therefrom," as recited in claim 28 (emphasis added).

Accordingly, for at least these reasons, *Pillay* does not anticipate independent claim 28. Claim 29 depends from claim 28 and is also allowable for at least the same reasons as that discussed above for claim 28.

III. Rejections of Claims 5 and 11 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the Examiner's rejection of claims 5 and 11 under 35 U.S.C. § 103(a) as being unpatentable over *Johnson* in view of *Natsuno*. A *prima facie* case of obviousness has not been established.

"The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . [R]ejections

on obviousness cannot be sustained with mere conclusory statements.”

M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” M.P.E.P. § 2143.01(III) (emphasis in original). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03. “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. M.P.E.P. § 2141.02(I) (emphases in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

A *prima facie* case of obviousness has not been established because the Examiner has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention and the prior art. Accordingly, the Examiner has failed to clearly articulate a reason why the prior art would have rendered the claimed invention obvious to one of ordinary skill in the art.

Claims 5 depends from claim 1 and, thus, incorporates each and every element recited therein. As noted above, *Johnson* fails to teach or suggest a “credit limit manager” for “managing credit limit master data and calculating open and used credit for said customer,” are recited in claim 1. *Johnson* also fails to disclose a “credit rules engine” for “applying credit rules to the credit information, the credit limit master data and calculated open and used credit, and the accounting information relating to said customer to generate internal scoring and internal credit limits,” as recited in claim 1 (emphasis added). The Examiner cited *Natsuno* as allegedly teaching information comprising customer profession and age information. (See Office Action at 13). Even assuming the Examiner’s characterization of *Natsuno* is correct, *Natsuno* fails to cure the deficiencies of *Johnson*, including with respect to the above-noted elements of claim 1. Accordingly, the cited references, taken either alone or in any reasonable combination, fail to teach or suggest all the limitations of claim 1 and dependent claim 5.

In view of the mischaracterization of the references, as discussed above, the Examiner has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and claimed combination. Thus no *prima facie* case of obviousness has been established.

For at least these reasons, *Johnson* and *Natsuno* therefore fail to support a *prima facie* case of obviousness. The rejection of claim 5 under 35 U.S.C. §103 as being obvious over *Johnson* in view of *Natsuno* is thus improper and should be withdrawn.

Similarly, claim 11 depends from claim 6 and thus incorporates each and every element recited therein. For similar reasons to that stated above, no *prima facie* case of

obviousness is established with respect to claim 11 based on the combination of *Johnson* and *Natsuno*. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 11.

IV. Rejections of Claims 17, 24, and 26 under 35 U.S.C. § 103(a)

Claims 17 and 26 have been cancelled and, thus, the rejections of these claims are moot. In addition, Applicants note that *Johnson* is the only reference relied upon by the Examiner for the rejection of claim 24 under 35 U.S.C. § 103(a). The M.P.E.P. sets forth that

[t]he distinction between rejections based on 35 U.S.C. 102 and those based on 35 U.S.C. 103 should be kept in mind. Under the former, the claim is anticipated by the reference. No question of obviousness is present. In other words, for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. Whereas, in a rejection based on 35 U.S.C. 103, the reference teachings must somehow be modified in order to meet the claims. The modification must be one which would have been obvious to one of ordinary skill in the art at the time the invention was made. M.P.E.P. § 706.02(IV).

The M.P.E.P. clearly instructs that, for a proper 35 U.S.C. § 103 rejection, “the reference teachings must somehow be modified in order to meet the claims.” Id. Therefore, if the Examiner applies a 35 U.S.C. § 103(a) rejection based on *Johnson*, he must articulate how and why *Johnson* could be modified to supposedly teach each and every element of claim 24. The Examiner does not explain how or why *Johnson* could be modified, other than to make a generalized allegation that “it would have been obvious to the skilled artisan because the inclusion of such types would have been an obvious matter of design choice in light of the invention already disclose[d] by *Johnson*”. (See Final Office Action, pp 13-14.)

Moreover, the Examiner's rejections are not properly communicated, as there is no proper explanation of why one of ordinary skill in the art at the time the invention was made would have been motivated to make "as a design choice" the proposed modification to meet the elements of Applicants' claims. According to the M.P.E.P., "[i]t is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the Applicants can be given fair opportunity to reply." M.P.E.P. § 706.02(j).

The M.P.E.P. further instructs that,

[a]fter indicating that the rejection is under 35 U.S.C. 103, the examiner should set forth in the Office action:

- (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,
- (B) the difference or differences in the claim over the applied reference(s),
- (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and
- (D) *an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.*

Id., italics added. In this rejection, the Examiner has not at least set forth "an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification." Id.

Accordingly, no *prima facie* case of obviousness has been established and the rejection of claim 24 under 35 U.S.C. §103 should be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of all pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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